

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 24**

L.M. WASTE SERVICE CORP.

Employer

and

UNION DE TRONQUISTAS DE PUERTO RICO,  
LOCAL 901, IBT,AFL-CIO

Petitioner

Cases 24-RC-8377  
24-CA-9841

**REPORT ON OBJECTION, ORDER  
CONSOLIDATING CASES AND NOTICE OF HEARING**

Pursuant to a Stipulated Election Agreement executed by the parties, and approved by the Regional Director on April 14, 2004, an election by secret ballot was conducted on May 12, 2004, under the direction and supervision of the Regional Director among all full time and regular part time employees, including drivers, waste helpers, technicians, mechanics, and utility employees employed by the Employer at its place of business in Caguas, Puerto Rico; but excluding all other employees, office clerical, professional employees, guards and supervisors as defined in the Act.

The tally of ballots, made available to the parties, revealed the following:

Approximate number of eligible voters	22
Void ballots	0
Votes cast for Petitioner	7
Votes cast against participating labor organization	10
Valid votes counted	17
Challenged ballots	3
Valid votes counted plus challenged ballots	20

On May 18, 2004, Petitioner timely filed an objection to the election that was served upon the Employer on the same date.

Pursuant to the Stipulated Election Agreement, and in conformity with Section 102.69 of the Board's Rules and Regulations, the undersigned Regional Director caused an investigation to be made of Petitioner's objection to the election and now sets forth her findings, conclusions

and recommendations with respect thereto.

Essentially, the Petitioner's objection<sup>1</sup> alleges that the above Employer unlawfully discharged Pedro Rivera Maldonado and Ernesto Rodríguez Diaz because of their activities on behalf of Petitioner and refers to the related unfair labor practice charge, 24-CA-9841<sup>2</sup>. The Employer denied the commission of any unfair labor practices under the Act and moves for the dismissal of the Petitioner's objections.

On this same date, the undersigned Regional Director has issued a Complaint and Notice of Hearing in Case 24-CA-9841 alleging, *inter alia*, at paragraphs 7 and 9 that the above Employer discharged employees Pedro Rivera Maldonado and Ernesto Rodríguez Diaz on April 6 and 8, 2004 because of their protected concerted activity and their activities in support of Petitioner in violation of Section 8(a)(1) and (3) of the Act. As these objections raise substantial and material issues of fact, which can only be resolved on the basis of record testimony and, as a hearing on the aforementioned discharges is scheduled for September 15, 2004, before a duly designated Administrative Law Judge of the National Labor Relations Board, it would effectuate the purposes and policies of the Act that the same be consolidated for hearing as set forth herein.

**IT IS ORDERED** pursuant to Section 102.69 of the Board's Rules and Regulations, that a hearing be held before a duly designated Administrative Law Judge of the National Labor Relations Board, to resolve the issues raised by Petitioner's objection. The undersigned having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act, and in order to avoid unnecessary costs and delays,

**IT IS ORDERED**, pursuant to Section 102.33 and 102.69 (i)(1) of the Rules and Regulations of the National Labor Relations Board, Series 8, as amended, that Cases 24-CA-9841 and 24-RC-8377 be, and they hereby are, consolidated for purposes of hearing, ruling and decision by an Administrative Law Judge, and that thereafter Case 24-RC-8377 be transferred

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<sup>1</sup>Petitioner's objection is attached hereto.

<sup>2</sup>The Petitioner inadvertently wrote the incorrect case number on the objection document.

to and continued before the Board in Washington, D.C., and that the provisions of Section 120.46 and 102.69 (e) of the above-mentioned Rules shall govern the filing of exceptions.

**YOU ARE HEREBY NOTIFIED** that commencing on September 15, 2004 at 9:30 a.m. in San Juan, Puerto Rico, and on consecutive days thereafter until concluded, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board upon the issues of fact raised by the Petitioner's objection, at which time you will have the right to appear in person, or otherwise and give testimony.<sup>3</sup>

Dated at San Juan, Puerto Rico on the 30<sup>th</sup> day of July, 2004.

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Marta M. Figueroa, Director  
Region 24  
National Labor Relations Board

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<sup>3</sup> Under the provisions of Section 102.69 of the Board's Rules and Regulations, exceptions to this report may be filed with the Board in Washington, D.C. 20570. Exceptions must be received by the Board in Washington by August 12, 2004.

Under the provisions of Section 102.69(g) of the Board's rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections or challenges and which are not included in the Report, are not part of the record before the Board unless appended to the exceptions or opposition thereto which the party files with the Board. Failure to append to the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the report shall preclude a party from relying upon that evidence in any subsequent related unfair labor practice proceeding.